

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
3                                   **EASTERN DISTRICT OF PENNSYLVANIA**

4       NAKIA TUMBLIN,                                   )

5                                   Plaintiff                                   )

6                                   v.                                   )

7                                   ) **Case No.:**  
8       AMSHER COLLECTION SERVICES, INC.,                                   )  
9                                   ) **COMPLAINT AND DEMAND FOR**  
10                                   ) **JURY TRIAL**  
11                                   ) **Defendant**

12                                   **COMPLAINT**

13               NAKIA TUMBLIN (“Plaintiff”), by and through his attorneys, KIMMEL &  
14       SILVERMAN, P.C., alleges the following against AMSHER COLLECTION  
15       SERVICES, INC. (“Defendant”):

16                                   **INTRODUCTION**

17               1.     Plaintiff’s Complaint is based on the Fair Debt Collection Practices  
18       Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.* and the Telephone Consumer Protection  
19       Act, (“TCPA”), 47 U.S.C. § 227, *et seq.*

20                                   **JURISDICTION AND VENUE**

21               2.     Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),  
22       which states that such actions may be brought and heard before “any appropriate  
23       United States district court without regard to the amount in controversy,” and 28  
24       United States district court without regard to the amount in controversy,” and 28  
25

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
2 under the laws of the United States.

3 3. Defendant conducts business in the Commonwealth of Pennsylvania  
4 and as such, personal jurisdiction is established.

5  
6 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

7 **PARTIES**

8 5. Plaintiff is a natural person residing in Lancaster, Pennsylvania  
9 17602.

10  
11 6. Plaintiff is a "consumer" pursuant to 15 U.S.C. § 1692a(3).

12 7. Plaintiff is a “person” with standing to bring this suit pursuant to 15  
13 U.S.C. §1692k(a).

14  
15 8. Defendant is a debt collection company with its headquarters located  
16 at 4524 Southlake Parkway, Suite 15, Birmingham, Alabama, 35244.

17 9. Upon information and belief, Defendant is a corporation that provides  
18 call center, collections and debt purchase services to companies in the United  
19 States.

20  
21 10. At all times material hereto, Defendant acted as a “debt collector”  
22 within the meaning of 15 U.S.C. § 1692(a)(6), and repeatedly contacted Plaintiff in  
23 its attempts to collect a “debt” as defined by 15 U.S.C. § 1692(a)(5) for another  
24 person.  
25

1           11. Defendant acted through its agents, employees, officers, members,  
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
3 representatives, and insurers.

4                                   **FACTUAL ALLEGATIONS**

5           12. Upon information and belief, Defendant collects, and attempts to  
6 collect, debts incurred, or alleged to have been incurred, for personal, family, or  
7 household purposes on behalf of creditors using the U.S. Mail, telephone and/or  
8 internet.  
9

10           13. Upon information and belief, the alleged debt Defendant was seeking  
11 to collect arose out of transactions that were related to a debt for family,  
12 household, or personal purposes.  
13

14           14. Defendant repeatedly called Plaintiff on her cellular telephone in its  
15 attempts to collect a debt.  
16

17           15. During this time Defendant placed calls to Plaintiff using an automatic  
18 telephone dialing system and/or artificial or pre-recorded messages.  
19

20           16. Plaintiff knew Defendant was using an automatic telephone dialing  
21 system, as calls would begin with a pre-recorded message before transferring to a  
22 representative.  
23

24           17. Defendant's calls were not for emergency purposes.  
25

1 18. Shortly after the calls started, Plaintiff first told Defendant to stop  
2 calling.

3 19. Defendant heard and acknowledged this request.

4 20. However, Defendant did not remove Plaintiff's cellular telephone  
5 number from its database and continued to call Plaintiff in its attempts to collect  
6 this alleged debt.  
7

8 21. These repeated and continuous phone calls were aggravating and  
9 annoying, especially after Plaintiff told Defendant to stop calling her.  
10

11 22. Once Defendant was aware that its calls were unwanted any further  
12 calls could only have been for the purpose of harassing Plaintiff.  
13

14  
15 **DEFENDANT VIOLATED THE**  
16 **FAIR DEBT COLLECTION PRACTICES ACT**

17 **COUNT I**

18 23. Defendant's conduct, detailed in the preceding paragraphs, violated 15  
19 U.S.C. §§ 1692d and 1692d(5).

20 a. Section 1692d of the FDCPA prohibits debt collectors from  
21 engaging in any conduct the natural consequence of which is to  
22 harass, oppress, or abuse any person in connection with the  
23 collection of a debt.  
24

25 b. Section 1692d(5) of the FDCPA prohibits debt collectors from

1 causing a telephone to ring or engaging any person in telephone  
2 conversation repeatedly or continuously with intent to annoy,  
3 abuse, or harass any person at the called number.

4 c. Here, Defendant violated §§ 1692d and 1692d(5) of the  
5 FDCPA when it called Plaintiff's cellular telephone repeatedly  
6 and continued to call knowing its calls were unwanted.  
7

8  
9  
10 **DEFENDANT VIOLATED THE**  
11 **TELEPHONE CONSUMER PROTECTION ACT**

12 **COUNT II**

13 24. Plaintiff incorporates the forgoing paragraphs as though the same  
14 were set forth at length herein.

15 25. Defendant initiated multiple telephone calls to Plaintiff's cellular  
16 telephone using an automatic or "predictive" dialing system.  
17

18 26. The calls were made using an artificial or pre-recorded voice.

19 27. Defendant's calls to Plaintiff were not made for emergency purposes.

20 28. After Plaintiff told Defendant to stop calling, the Defendant knew or  
21 should have known it did not have consent to call and that any consent it may have  
22 thought it had, if any, was revoked.  
23  
24  
25

1 29. Defendant's acts as described above were done with malicious,  
2 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights  
3 under the law and with the purpose of harassing Plaintiff.

4 30. The acts and/or omissions of Defendant were done unfairly,  
5 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,  
6 lawful right, legal defense, legal justification or legal excuse.

7 31. As a result of the above violations of the TCPA, Plaintiff has suffered  
8 the losses and damages as set forth above entitling Plaintiff to an award of  
9 statutory, actual and trebles damages.  
10  
11

12  
13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff, NAKIA TUMBLIN, respectfully prays for a  
15 judgment as follows:  
16

- 17 a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A) and  
18 15 U.S.C. §1692k(a)(1),  
19  
20 b. Statutory damages of \$1,000.00 for the violation of the FDCPA  
21 pursuant to 15 U.S.C. §1692k(a)(2)(A);  
22  
23 c. All reasonable attorneys' fees, witness fees, court costs and other  
24 litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §1693k(a)(3)  
25

1 d. Statutory damages of \$500.00 per violative telephone call pursuant to  
2 47 U.S.C. § 227(b)(3)(B);

3 g. Treble damages of \$1,500.00 per violative telephone call pursuant to  
4 47 U.S.C. §227(b)(3);

5 h. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and

6 i. Any other relief deemed appropriate by this Honorable Court.  
7  
8  
9  
10

11 **DEMAND FOR JURY TRIAL**

12 PLEASE TAKE NOTICE that Plaintiff, NAKIA TUMBLIN, demands a  
13 jury trial in this case.  
14

15 RESPECTFULLY SUBMITTED,

16 Date: 7-25-19

17 By: /s/ Amy L. B. Ginsburg  
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